

REMARKS

Examiner has objected to the disclosure because of informalities. In response, Applicant has amended page 8, paragraph 2, line 4 to read "22a and 22b" in lieu of "22," as per Examiner's notation.

With respect to the drawing informalities, Examiner has objected "because Figure 3 shows grooves in column 30 and Figure 4 fails to show the grooves as disclosed in the specification and as shown in Figure 3." In response, Applicant has amended the Brief Description of Drawings on page 7, paragraph 3, to correct that Figure 3 is more accurately described as a "cross-sectional" view, in lieu of a plan section view. In order to view the grooves referenced by Examiner, one would have to reposition the perspective of Figure 3 from cross-sectional to a rear view. Therefore, Applicant has amended Figure 3 to depict, in dotted-line form, alignment holes 34 with lever 10 therein, in order to clarify the positioning as it properly coincides with that depicted in Figure 4, but in dotted-line form to properly designate the viewing "through" structural column assembly 30 to an end thereof. Thus, Figure 3 depicts four universal attachment assemblies, the outermost assemblies positioned generally horizontally, or parallel with the length

of the space to be covered, and the innermost assemblies positioned generally vertically, or perpendicular to the length of the space to be covered, but parallel with the length of the structural column assembly. Such an arrangement provides for reinforcement across large window frames, garage door openings, and the like, as described in the specification. Further, with respect to Figure 3, Applicant has amended fulcrum holes 23 and retainer holes 26 to more accurately represent that each, as described throughout the specification, is a "hole" or aperture, as opposed to a groove, as may have been incorrectly implied in the previous Figure 3. Thus, in the cross-sectional view of Figure 3, each fulcrum hole 23 and retainer hole 26 is depicted with dotted-line passage therethrough of levers 10, wherein each retainer hole 26a is defined in structural column assembly 30, each retainer hole 26 is defined in interior wall face 25, and each fulcrum hole 23 is defined in shutter 24.

With respect to Figure 2, Applicant has amended the positioning of lever 10 to depict the proper positioning, when in use, relative to ratcheting device 21. In view of the present amendments to the drawings, Applicant respectfully believes that said drawings are no longer objectionable.

Examiner has rejected Claim 1-3 under 35 U.S.C. §112, as

"being indefinite," specifically noting numerous words and phrases deemed unacceptable. In response thereto, Applicant has amended pending Claims 1-3 and has added new Claims 4-17. Applicant respectfully notes the Specification and Claims, as originally filed, were *pro se*. However, Applicant has now obtained Counsel and seeks to prosecute the revised claim set, wherein the format of the pending claims has been revised by said Counsel, and new claims have been added.

Pending satisfaction of Examiner's rejections under 35 U.S.C. §112, Examiner has found Claims 2 and 3 to be allowable. However, Examiner has rejected Claims 1 under 35 U.S.C. §102(b) as being anticipated by *Jackson* (6,195,848), wherein Applicant appreciates Examiner's interest in advancing the prosecution by offering this rejection in spite of the §112 objections. In response, as noted above, Applicant has amended Claim 1, has provided additional claims, and respectfully traverses Examiner's rejection.

Jackson ('848) does teach a tie-down assembly with a tensioning strap and a ratcheting device. However, *Jackson* ('848) does not utilize, anticipate, teach or render obvious a clamping lever that can function to distribute force, but instead incorporates a simple, self-described hook. Applicant

respectfully clarifies that the "concavity" referenced by Examiner is unlike the concavity of Applicant's original Claim 1. The "concavity" of *Jackson* ('848) is a triangular hollow defined by the hook defining rod, such that if one views the hook profile, one does not view the concavity, but views only the "U" shape of a traditional hook profile. That is, in order to view the "concavity" of *Jackson* ('848), a front view, as is depicted in *Jackson* ('848) Figure 5, or a rear view, as is depicted in *Jackson* ('848) Figure 6, is necessary.

For Applicant's invention, exactly the opposite arrangement is required. That is, if the lever of Applicant's device is viewed from the front or the rear, an essentially straight line member would be viewed. And, if one views the profile of the lever of Applicant's device, one would not view a "U" shape, but would view an undulating shape, much like an overextended "S" with a circular tail-piece, or headpiece, depending upon the orientation thereof. This distinction in the shape of Applicant's lever, when compared to the hook of *Jackson* ('848), is critical because it is the very factor that enables the lever action of Applicant's invention.

The arcuate center section of Applicant's lever acts as the lever fulcrum, or axis of motion, wherein the effort for the

lever action occurs at the looped, strap-fastening end, and the resistance of the lever is delivered at the open end, resulting in a motion much like a see-saw, with the fulcrum in between the two ends. It would be impossible for *Jackson* ('848) to perform such a function. Applicant has amended Figure 2 to more accurately depict the position of Applicant's levers relative to the ratcheting member and the strap. Referring to amended Figure 2, Applicant notes the clear difference in the hook of *Jackson* ('848), wherein, during use, the open end faces toward the ratcheting device and the "concavity" is in a plane perpendicular to that of the hook. In Applicant's device, during use, the open end faces away from the ratcheting device and the concavity is coplanar with the "hook" or open end portion.

Thus, the configuration and operation of *Jackson* ('848) is unlike Applicant's device, wherein Applicant's device essentially incorporates a ratcheting device and tension transmitters between a pair of first class levers. As depicted in Applicant's Figure 3, the compressive force delivered from the ratcheting device is distributed to the supporting structure via the lever fulcrums. If similar tension were to be applied across a *Jackson* ('848) device, secured over a similar shuttered opening, the same ratcheting force would simply be delivered to

the shutters. Therefore, Applicant respectfully asserts that because the identical invention is not shown, *Jackson* ('848) does not anticipate Applicant's device. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989) ("The identical invention must be shown in as complete detail as is contained in the...claim.")

Applicant has amended Independent Claim 1 to clarify and more succinctly define that Applicant's "concavity" is an arcuate midsection defined between and in the same plane as the ends of the lever. Therefore, because "a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference," *Verdegaal Bros. v. Union Oil co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987), and because *Jackson* ('848) does not describe each and every element of Applicant's device, namely Applicant's lever, Applicant believes that Applicant's Independent Claim 1, as amended, is distinguished.

Applicant believes that the foregoing amendments and arguments distinguish the claims over the prior art and establish that Applicant's claimed invention is novel and non-

obvious, thereby placing the rejected claims 1 in condition for allowance. Applicant further believes that Applicant's newly added Claims are also in condition for allowance.

CONCLUSION

The above amendments are corrections to form and thus, no new matter was added. In light of the above amendments and arguments, Applicant respectfully believes that Claims 1-17 are now allowable. Should there be any questions or concerns, the Examiner is invited to telephone Applicant's undersigned attorney.

Respectfully submitted, this 3rd day of October, 2005.



Sandra M. Sovinski
Reg. No. 45,781

Myers & Kaplan,
Intellectual Property Law, L.L.C.
1899 Powers Ferry Road
Suite 310
Atlanta, GA
(770) 541-7444
(770) 541-7448 facsimile
ssovinski@mkiplaw.com -- Email
Attorney Docket Number: 27700-RA

AMENDMENTS TO THE DRAWINGS

Please amend Figures 2 and 3 as shown in the attached replacement sheets.